

REMARKS

Claim 37 is canceled. Claim 47 is added.

Claims 23-36 and 38-47 are present in this case.

Restriction has been required from between:

- 1) Claims 23-39, drawn to a compound as set forth in formula III (Group I); and
- 2) Claims 40-46, drawn to a nano-particle containing the compound of formula I as set forth in claim 25 (Group II).

In particular, the examiner is of the opinion that PCT Rules 13.1 and 13.2 have not been satisfied in that the two claim groups ostensibly lack the same or corresponding special technical features. Specifically, the examiner opines that "the inventive concept of the products encompassed by formula III is not required for use in the nanoparticle of Group I." See page 2 of the Official Action.

However, Applicants traverse this requirement on the basis that the nanoparticles of Group II contain a compound of the formula (I), which represents a sub-group of formula (III). Therefore, the nanoparticles of Group II contain all of the limitations of the formula (III) of Group I.

Thus, both PCT Rules 13.1 and 13.2 are satisfied.

Accordingly, for the above reasons, it is urged that the requirement for restriction is unwarranted and should be withdrawn, and that a search and examination of both identified claim groupings should proceed without further delay.

SUPPORT FOR NEW CLAIM 47

Applicants have canceled claim 38, and added new claim 47 in order to correct a readily apparent error in formula (F).

Notably, formula (F) appears at page 43 of the specification as filed, and claim 38 of the Preliminary Amendment of April 21, 2006. However, the compound of the formula(F) corresponds to the case where Z-R2 is the NTA radical. The NTA radical contains a hexanoic acid chain (C6) (see end of claim 23) whereas formula (F) shows a pentanoic acid chain (C5).


From the description of the synthesis (Page 42, last line to page 45, line 23), it is clear that a hexanoic acid chain was/is intended. Further, page 44, lines 1-52 describes the synthesis of an intermediate fragment 6-acryloyl amino-[bis(2-carboxyethyl)-amino] hexanoic acid 8. This hexanoic acid is then conjugated with compound 4 to give compound (F).

New claim 47 includes the correct formula for the compound (F) as supported by the present specification as filed.

Applicants have not attempted to correct the specification at present, recognizing that they may do so without prejudice by filing a Request For Certificate Of Correction after patent issuance. Applicants also wish to express their gratitude to the U.S. Patent and Trademark Office personnel for confirming this procedure for correction of an application at sometime after publication.

Favorable consideration is earnestly solicited.

Respectfully submitted
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